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UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

In re	)	CASE NO. 11-31376-DM
	)	
	)	Chapter 11 Case
Howrey LLP,	)	
	)	<b>CITIBANK, N.A.'S MOTION FOR</b>
	)	<b>ENTRY OF AN ORDER CONVERTING</b>
	)	<b>THE DEBTOR'S CHAPTER 11 CASE TO</b>
Debtor	)	<b>A CASE UNDER CHAPTER 7 OF THE</b>
	)	<b>BANKRUPTCY CODE, OR, IN THE</b>
	)	<b>ALTERNATIVE, APPOINTING A</b>
	)	<b>CHAPTER 11 TRUSTEE</b>
	)	
	)	Hearing Date: September 21, 2011
	)	[Requested]
	)	Time: 9:30 a.m.
	)	Place: Courtroom 22
	)	235 Pine Street, 19th Floor
	)	San Francisco, CA 94104
	)	Judge: Honorable Dennis Montali

Citibank, N.A. ("Citibank"), a secured creditor in the case of the above-captioned debtor (the "Debtor"), hereby moves this Court, by and through its undersigned counsel, pursuant to sections 105(a), 1104(a) and 1112(b) of Title 11 of the United States Code (the

1 “Bankruptcy Code”) and Rule 1017(f) of the Federal Rules of Bankruptcy Procedure (the  
2 “Bankruptcy Rules”), for entry of an order converting the above-captioned case (the “Chapter 11  
3 Case”) to a case under chapter 7 of the Bankruptcy Code, or alternatively, appointing a chapter  
4 11 trustee.

5  
6 As set forth in detail in the Memorandum of Points and Authorities in Support of  
7 the Motion of Citibank, N.A. for Entry of an Order Converting the Chapter 11 Case to a Case  
8 Under Chapter 7 of the Bankruptcy Code, Or, in the Alternative, Appointing a Chapter 11  
9 Trustee (the “Memorandum”),<sup>1</sup> cause exists to convert the Chapter 11 Case to a case under  
10 chapter 7 of the Bankruptcy Code, or alternatively, to appoint a chapter 11 trustee,<sup>2</sup> pursuant to  
11 section 1112(b)(4)(A) of the Bankruptcy Code. Section 1112(b)(4)(A) provides, in relevant part,  
12 that “cause” for conversion of a chapter 11 case includes, among other things, “substantial or  
13 continuing loss to or diminution of the estate and the absence of a reasonable likelihood of  
14 rehabilitation.” 11 U.S.C. § 1112(b)(4)(A). It is beyond dispute that “cause” for conversion  
15 exists here. The Debtor has incurred approximately \$5.8 million in administrative costs since the  
16 commencement of the case. However, this is a liquidating case and the Debtor is essentially no  
17 longer operating or generating any new accounts receivable to fund these substantial costs.  
18 Accordingly, all of the Debtor’s administrative costs are being funded from Citibank’s cash  
19  
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23 <sup>1</sup> Capitalized terms used and not defined herein shall have the meanings ascribed to them in the Memorandum.

24 <sup>2</sup> Section 1104(a) of the Bankruptcy Code provides, in relevant part, that the Court “shall order the appointment  
25 of a trustee . . . (3) if grounds exist to convert . . . the case under section 1112, but the court determines that  
26 the appointment of a [chapter 11] trustee . . . is in the best interests of creditors and the estate.” 11 U.S.C. §  
27 1104(a)(3). As set forth herein and in the Memorandum, “cause” exists under section 1112 to convert the  
28 Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code. If, however, the Court finds that the  
appointment of a chapter 11 trustee would instead be in the best interests of creditors and the estate, Citibank  
hereby alternatively requests such relief.

1 collateral – cash and ongoing collections of accounts receivable – which means there has  
2 necessarily been a substantial and continuing diminution in the value of the Debtor’s estate.

3  
4 In addition, the Debtor has consistently failed to meet its projected estimates of  
5 future collections of accounts receivable in Hourly Cases, and the rate of such collections has  
6 precipitously declined since commencement of the Chapter 11 Case. This is most likely because  
7 the Debtor was able to successfully monetize its higher-quality accounts receivable early in the  
8 case, which has now left it with receivables that will likely be more difficult to monetize.  
9 Indeed, \$32.7 million of the Debtor’s \$33.3 million in total outstanding U.S. accounts receivable,  
10 or approximately 98.2%, are more than 91 days old. Finally, and as discussed in greater detail in  
11 the Memorandum, the timing and amount of the Debtor’s recovery on the Contingent Cases  
12 remains speculative at this juncture. Moreover, since the Petition Date, the prospect of any  
13 substantial and immediate recovery from the Contingent Cases has diminished due to certain  
14 recent adverse rulings and procedural delays that could potentially impair the Debtor’s ultimate  
15 recoveries in such cases.  
16

17 Conversion is also warranted because Citibank will not consent to the Debtor’s  
18 use of its cash collateral beyond September 23, 2011, and therefore the Debtor will not be able to  
19 administer its estate after that date. Over the past several months since the commencement of the  
20 Chapter 11 Case, the Debtor, Citibank and the Creditors’ Committee have engaged in extensive,  
21 good faith negotiations regarding the terms of a consensual plan to wind-down the Debtor’s  
22 estate in chapter 11. Throughout these negotiations, Citibank has endeavored to work  
23 cooperatively with the Debtor to maximize the value of its estate, and, to that end, approximately  
24 \$5.8 million of Citibank’s cash collateral has to date been used by the Debtor to fund  
25 administration of the Chapter 11 Case. Unfortunately, despite the parties’ good faith efforts,  
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1 they have been unable to agree on the terms of a long-term budget that would govern the  
2 Debtor's use of Citibank's cash collateral for such wind-down efforts.

3 With the parties at an impasse, Citibank will not agree to the continued use of its  
4 cash collateral beyond the expiration of the Supplemental Cash Collateral Order, which expires  
5 by its own terms on September 23, 2011. Accordingly, after September 23, 2011, the Debtor  
6 will not be authorized to use Citibank's cash collateral unless it can demonstrate that Citibank's  
7 interests are adequately protected. For the reasons set forth in Memorandum, the Debtor cannot  
8 make such a showing.

9  
10 WHEREFORE, Citibank respectfully requests that the Court enter an order,  
11 substantially in the form attached as Exhibit A to the Memorandum, converting the Chapter 11  
12 Case to a case under chapter 7 of the Bankruptcy Code, or alternatively, appointing a chapter 11  
13 trustee, and granting such other and further relief as may be necessary.

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15  
16 Respectfully submitted,

17 Dated: September 15, 2011

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19 and

20 PEITZMAN, WEG & KEMPINSKY LLP  
21 Lawrence Peitzman

22 By: /s/ Lawrence Peitzman  
23 Counsel to Citibank, N.A.